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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/721,515	11/24/2003	Steve Stewart	1238U002	5326

7590 06/02/2004

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EXAMINER

FETSUGA, ROBERT M

ART UNIT	PAPER NUMBER
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3751

DATE MAILED: 06/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/721,515

Applicant(s)

STEWART, STEVE

Examiner

Robert M. Fetsuga

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 11/24/03.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the subject matter set forth in claim 8 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Applicant is required to submit a proposed drawing correction in response to this Office action. Any proposal by applicant for amendment of the drawings to cure defects must consist of two parts:

a) A separate letter to the draftsman in accordance with MPEP 608.02(r); and

b) A print or pen-and-ink sketch showing changes in red ink in accordance with MPEP 608.02(v).

IMPORTANT NOTE: The filing of new formal drawings to correct the noted defect may be deferred until the application is allowed by the examiner, but the print or pen-and-ink sketch with proposed corrections shown in red ink is required in response to this Office action, and may not be deferred.

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: Proper antecedent basis for the "gear" (first and second) set forth in claims 1, 18 and 19, "securing

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screw" set forth in claim 4, subject matter set forth in claim 8, and "method" language set forth in claim 19, could not be found in the specification. Applicant is reminded claim terminology in mechanical cases should appear in the descriptive portion of the specification by reference to the drawing(s).

3. Claims 9, 12 and 13 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claim 9 recites a "friction bushing". Implementation of this subject matter is neither taught by the instant disclosure nor evident to the examiner. This element is not described in the specification, nor is it illustrated in any discernable manner in the drawing figures, to teach one how the claimed functions are effected thereby. Claims 12 and 13 also recite this subject matter.

Claim 13 recites the friction bushing as being "adjustable". Implementation of this subject matter is neither taught by the instant disclosure nor evident to the examiner.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 2, 5-9, 12, 13 and 16-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Kumarasurier.

The Kumarasurier reference (Fig. 9) discloses an apparatus comprising: a first gear 82; a lever 16 including a foot pedal 14; a second gear 80; a flange 86; a floor (supporting 12); a plate 102; a pair of brackets (at 106) including bushings 20b; and a cover 26b,94, as claimed. Re claims 9, 12 and 13, the bushings would provide some "friction".

6. Claims 1, 2, 5, 6 and 12-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Knudsen.

The Knudsen reference discloses an apparatus comprising: a first gear 35; a lever 12 including a foot pedal 32; a second gear 37; a flange 13; a floor (Fig. 1); a bushing (col. 2 ln. 70); a toilet seat 24; a toilet cover 25; a toilet including a

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bowl 17 and a tank (col. 3 ln. 53); and a cover 11, as claimed.

Re claims 12 and 13, the bushing would provide some "friction".

7. Claims 1, 2, 7-9 and 12-19 are rejected under 35

U.S.C. 102(b) as being anticipated by Revers.

The Revers reference discloses an apparatus comprising: a first gear 32; a lever 50; a second gear 24; a flange 30; a plate 18; a pair of brackets 20,22; bushings (col. 1 ln. 55 and col. 2 ln. 15); a toilet seat 31; a toilet cover 26; a toilet including a bowl 10 and a tank (Fig. 1); and a cover 22, as claimed. Re claims 9, 12 and 13, the bushings would provide some "friction". Re claims 18 and 19, the term "foot-operated" does not distinguish the Revers lever.

8. Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Kumarasurier, Knudsen or Revers.

The choice of gear ratio would appear an obvious choice to be made depending upon desired seat movement speed.

9. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kumarasurier and Alberts.

Although the lever of the Kumarasurier apparatus does not include upper and lower portions, as claimed, attention is directed to the Alberts reference which discloses an analogous apparatus which further includes a lever 14 having upper 17a and lower 17 portions. Therefore, in consideration of Alberts, it

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would have been obvious to one of ordinary skill in the art to associate upper and lower portions with the Kumarasurier apparatus in order to enable length adjustment of the lever.

10. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Knudsen and Alberts.

To associate upper and lower portions with the Knudsen apparatus would have been obvious to one of ordinary skill in the art in consideration of Alberts analogous to the discussion supra.

11. Applicant is referred to MPEP 714.02 and 608.01(o) in responding to this Office action.

12. Any inquiry concerning this communication should be directed to Robert M. Fetsuga at telephone number 703/308-1506 who can be most easily reached Monday through Thursday.

A handwritten signature in black ink, appearing to read "Robert M. Fetsuga", is positioned above the printed name and title.

Robert M. Fetsuga
Primary Examiner
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